

Congress of the United States
Washington, DC 20515

June 21, 2013

The Honorable Daniel M. Ashe
Director
U.S. Fish and Wildlife Service
1849 C Street NW
Washington, DC 20240-0001

Dear Director Ashe:

Based on significant scientific disagreement over the proposed listing of the Lesser Prairie Chicken (LEPC) as a “threatened species,” we are writing to request a six-month extension to the final listing deadline currently set for September 30, 2013. In addition to this extension, we believe that the final deadline should be set for June 11, 2014 to ensure consistency with Endangered Species Act (ESA) procedural deadlines.

We commend your decision to reopen the public comment period to allow for more thorough stakeholder input. A brief review of some of the comments that were filed reveals significant scientific discrepancies about the status of the species that must be analyzed and addressed. The Fish and Wildlife Service (FWS) has statutory authority under ESA and the settlement agreement to extend the final listing deadline by six months if there is scientific disagreement, and we firmly believe that such a determination is warranted in the case of the LEPC.

For instance, the U.S. Department of Agriculture (USDA) commented, “While the proposed rule describes in detail numerous threats to LEPC, USDA questions some of the assumptions regarding the Conservation Reserve Program (CRP) lands being used to support the proposed rule, particularly with respect to the consideration of agricultural and livestock operations contained therein.” USDA goes on to say that some of the programs administered within the Department “can be used to protect, enhance, or restore LEPC habitat, thus minimizing or eliminating the need for the listing.”

The American Wind Energy Association commented, “The Service should withdraw the Proposed Rule to list LEPC as threatened, in part, because the current and projected potential threats to the species, associated with wind energy development, were both overstated and overestimated at the time of the Proposed Rule. Overestimation of the number of forthcoming wind projects, recent scientific studies regarding grouse species and wind energy development, which indicate a weak correlation between turbines and long-term avoidance behavior, along with extensive voluntary conservation efforts by the wind energy industry, such as [the Great Plains Wind Energy Habitat Conservation Plan], indicate that the threat to the species and its habitat are not as significant as estimated.”

Other comments mention a variety of additional scientific disputes, including evidence that the species population levels are increasing and occupied range is expanding. Additionally, there may be less habitat fragmentation from oil and gas and other activities than FWS concluded, and conservation measures and new proposals offer significant opportunities to protect the species without requiring a “threatened” determination.

Furthermore, the timeline established under the settlement agreement created a review process that was truncated by nearly three months, which appears inconsistent with federal law and reduces the time that states and individuals have to engage in conservation activities to preserve the species and preclude a listing. As a result, we believe it is appropriate to amend the settlement agreement and extend the final deadline to June 11, 2014 to reflect the traditional one-year ESA review period plus the six month extension requested above.

Not only are these timeline revisions scientifically and legally warranted, but they provide state and local governments, landowners, and other stakeholders additional time to engage in conservation activities and voluntary agreements that will protect the species and preclude the need for a listing. We believe that those who are most affected by the proposed listing should be given a fair chance to deliver solutions, particularly the comprehensive range-wide plan led by the Western Association of Fish & Wildlife Agencies (WAFWA), and the related Candidate Conservation Agreements with Assurances (CCAAs). The extensions would allow enough time for proper participation in the plan, for FWS to approve it, and for stakeholders to enroll acreage. Ultimately, these voluntary efforts are proving to be in the best interests of the species and should help FWS come to a "not warranted" decision.

Your consideration of this request is greatly appreciated and we look forward to your response.

Sincerely,



Randy Neugebauer
Member of Congress



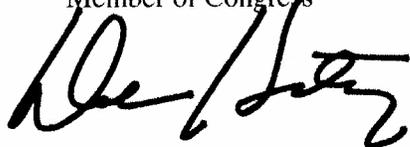
K. Michael Conaway
Member of Congress



Stevan Pearce
Member of Congress



Mac Thornberry
Member of Congress



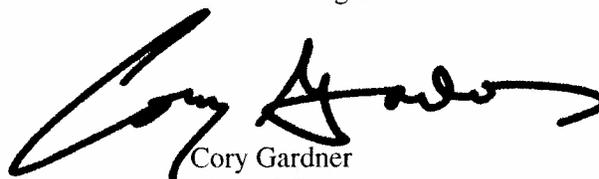
Doc Hastings
Chairman, Committee on Natural Resources
Member of Congress



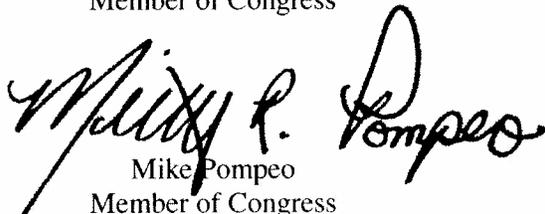
Frank Lucas
Chairman, Committee on Agriculture
Member of Congress



Tim Huelskamp
Member of Congress



Cory Gardner
Member of Congress



Mike Pompeo
Member of Congress